



POLICE DEPARTMENT CITY OF NEW YORK

August 5, 2016

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Rosetta Rosendary-Phillips
Tax Registry No. 900614
28 Precinct
Disciplinary Case No. 2014-12772 & 2015-14440

Charges and Specifications:

Disciplinary Case No. 2014-12772

1. Said Police Officer Rosetta Rosendary-Phillips, while assigned to the 28th Precinct, while on-duty, on or about between January 7, 2014 through March 8, 2014, inside of the 28th Precinct, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer failed to timely submit thirteen (13) complaint reports to the Crime Analysis Office.

P.G. 203-10, Page 1, Paragraph 5 – Public Contact – Prohibited Conduct
General Regulations

2. Said Police Officer Rosetta Rosendary-Phillips, while assigned to the 28th Precinct, while on-duty, on or about January 31, 2014, inside of the 28th Precinct, after having been directed by New York City Police Sergeant Roberto Coppola to leave the command and go on patrol, did fail and neglect to comply with said order.

P.G. 203-03, Page 1, Paragraph 2 – Compliance with Orders

3. Said Police Officer Rosetta Rosendary-Phillips, while assigned to the 28th Precinct, while on duty, on or about January 31, 2014, was discourteous to New York City Police Sergeant Roberto Coppola in that said Police Officer approached Sergeant Coppola and in a loud combative voice stated, "Why did you separate me from my partner?"

P.G. 203-09, Page 1, Paragraph 2 – Public Contact – Prohibited Conduct
General Regulations

Disciplinary Case No. 2015-14440

1. Said Police Officer Rosetta Rosendary-Phillips, while assigned to the 28th Precinct, while on-duty, on April 16, 2015, failed to appear in New York Traffic Violation Bureau resulting in the dismissal of nine (9) summons cases.

P.G. 203-03, Page 1, Paragraph 3 – Compliance with Orders

P.G. 203-10, Page 1, Paragraph 5 – Prohibited Conduct

Appearances:

For the Department: Javier R. Seymore, Esq.
Department Advocate's Office
One Police Plaza, 4th Floor
New York, NY 10038

For the Respondent: Michael Martinez, Esq.
Worth, Longworth & London LLP
111 John Street, Suite 640
New York, NY 10038

Hearing Dates:

April 21 and May 9, 2016

Decision:

Case No. 2014-12772:
Specification Nos. 1 & 3: Not Guilty
Specification No. 2: Guilty
Case No. 2015-14440: Guilty

Trial Commissioner:

ADCT David S. Weisel

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before the Court on April 21 and May 9, 2016. Respondent, through her counsel, entered a plea of Not Guilty to the charges in Case No. 2014-12772 and a plea of Guilty to the charges in Case No. 2015-14440. The Department called Lieutenant Braulio Rodriguez and Sergeant Roberto Coppola as witnesses, and Respondent testified on her own behalf. A stenographic transcript of the trial-mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

After reviewing the evidence presented at the hearing, and assessing the credibility of the witnesses, the Court finds Respondent Not Guilty of Specification Nos. 1 and 3 in Case No. 2014-12772, and Guilty of Specification No. 2. Having pleaded Guilty to the charges in Case No. 2015-14440, the Court finds Respondent Guilty.

FINDINGS AND ANALYSIS

The charges against Respondent relate to three events, two of which took place in the first part of 2014, and the third in 2015. At all times, Respondent was assigned to the 28 Precinct in Harlem. The first event concerns Respondent's obligation to turn in handwritten complaint reports. The second event concerns a police response to an alleged incident of child abuse at a school. The third event concerns Respondent missing an appearance at traffic court.

Case No. 2014-12772

Specification No. 1

It was undisputed that the 28 Precinct crime analysis office was missing 13 handwritten or "scratch" copies of complaint reports or '61's for arrests that had been handled by Respondent. The scratch copies are supposed to be handed in so that they can be compared to the computerized version of the complaint report contained in the Omniform database system. The idea was that the original officer's version of events could be checked against the Omniform version to see if there were discrepancies in crime classifications, narratives, and the like. Respondent was told on January 7, 2014, that she had ten days to hand in these 13 scratch copies. According to Respondent, she handed them in. According to the Department, she did not. The issue is who to believe (Tr. 51, 56).

Lieutenant Braulio Rodriguez was the integrity control officer at the 28 Precinct. Rodriguez indicated that on February 12, 2014, the crime analysis supervisor for the precinct requested a command discipline number for a CD he was planning on issuing to Respondent. The CD was to be for allegedly missing scratch copies of complaint reports. Rodriguez explained that while it was possible for a complaint report to be prepared only via the Omniform system, scratch copies were supposed to be submitted first, to a supervisor for approval. A supervisor approving an arrest also was supposed to verify that the scratch copy was completed. Once approved, the scratch copy got entered into the Omniform system. According to

Rodriguez, however, "[n]ormally when the officers have an arrest, you know, they keep the paperwork themselves and they make a copy for themselves and then they submit a copy to – with the actual final copy printed out from the system to the desk officer" (Tr. 16-20, 25-26, 29-30, 32, 36, 38-40, 47-52).

Rodriguez asserted that there were 13 complaint reports for which Respondent had not prepared a scratch copy. According to Rodriguez, Respondent was notified on January 7, 2014, that the reports were missing, told that they were due ten days later, and warned that a CD was possible if she failed to hand them in. She did not hand them in by then. Rodriguez spoke to officers from the crime analysis office, who told him that Respondent never came to the office to drop off the copies. There was a basket in the office for that purpose. Rodriguez claimed, however, that this would not have been a permissible method for Respondent to drop them off, because "normally when stuff like this happens, she normally is aware that, you know, there might be discipline so she needs to make sure that she should hand deliver it to someone." Rodriguez was basing this on prior incidents. He formally interviewed Respondent about the matter on March 4, 2014. She insisted that she had turned them in, but according to Rodriguez, the Department was not in possession of them. He gave her a formal instruction to complete the reports, and she complied a few days later. Rodriguez agreed that when she finally handed them in, she got a sergeant's signature as proof (Tr. 19-23, 25, 32-33, 35, 39-47).

Rodriguez admitted that he interviewed Respondent as part of a broader investigation into missing complaint reports. Five or six other officers also had missing scratch copies. Rodriguez nevertheless denied that the copies were getting lost routinely (Tr. 21-22, 25, 33-34, 37, 39).

Respondent testified that she had been a member of the Department for nearly 25 years, but only was assigned to the 28 Precinct since February 2010. On January 7, 2014, she testified, she was notified of 13 missing scratch '61's. Respondent conceded that even though the scratch

copy always was required and due the same day as the arrest, sometimes officers had to do the Omniform copy first so that a timely '61' number could be obtained, and then do the handwritten copy later. When she got the 13 notifications in question, she was told to consult the Omniform version and create a "new" scratch copy. Respondent testified that she complied with the notifications and wrote down on each the desk sergeant to whom she gave the new scratch copy by placing it in the basket. These were several different sergeants (Tr. 123, 154-58, 161, 171-72, 175; Respt. Ex. C, 13 notifications with sergeants' names in Respondent's handwriting).

Respondent contended that at least 40 different officers from her command were given similar notices. It was known that the crime analysis office was missing scratch copies and saying they had not been handed in (Tr. 162).

Respondent testified, however, that on March 4, 2014, she was told again that they were missing. She answered that she handed them in, first contemporaneously with the arrests, and then again between January 7 and 17, 2014, when she received the notification. She nevertheless redid them again by March 11, 2014. This time, she had the administrative sergeant sign and date each notification. She denied Rodriguez's claim that she was known for not doing scratch copies (Tr. 158, 161-62, 173-77; Respt. Ex. D, 13 notifications with administrative sergeant's signatures and dates).

The issue in this case comes down to credibility: does the Court credit Respondent's testimony that she handed in the scratch copies after being notified to do so on January 7, 2014? The tribunal finds that the Department failed to prove its case by a preponderance of the credible evidence, and that Respondent testified credibly.

In analyzing credibility, this tribunal may consider such factors as consistency of testimony, supporting or corroborating evidence, motivation, bias or prejudice, and the degree to which an account comports with common sense and human experience.

Several factors convince this Court that Respondent was a credible witness when testifying about the scratch copies. First, the crime analysis office was relying on a system that required officers to drop a piece of paper in a basket. There was no backup or proof that the copy made it into the basket, no scanning in the scratch copy or entering her compliance in a log. There is always the possibility with such a system that papers will get lost in the shuffle. See Case No. 84486/08, pp. 19-20 (Mar. 26, 2012). Second, Respondent was not the only officer missing scratch copies. It was undisputed that at least five or six officers also were missing copies. This suggests that the crime analysis office might not have been maintaining proper possession of every single scratch copy.

Third, Respondent went to the effort of writing down the sergeant to whom she gave each of the 13 scratch copies on each of the copies themselves. This was to maintain a basic record of the fact that she turned them in. Thus, there are two main possibilities: that Respondent actually handed in the scratch copies and made a record of which sergeant took each of them; or that she failed to hand in the copies, and concocted a false version of events in which she is not only lying about having handed them in but created false documents to bolster her case. The Court finds that the first possibility is more likely and the Department failed to prove otherwise. As such, she is found Not Guilty.

Specification Nos. 2 & 3

This case concerns a different incident from around the same time period. It was undisputed that on or about January 29, 2014, Respondent was assigned to patrol and Sergeant Roberto Coppola was assigned as the school unit supervisor, but also was filling in as the patrol supervisor. Both Respondent and Coppola responded to a radio run of an allegation of child abuse at a school. The child's mother alleged that a staff member had abused her son. Coppola

instructed Respondent to resume patrol, and determined that there was no probable cause for arrest.

It was further undisputed that the mother came to the stationhouse to complain that the staff member had not been arrested. The desk sergeant got involved and instructed Respondent to return to the scene to take further action, which she did.

It was further undisputed that two days later, Coppola changed Respondent's assignment from what was listed on the preprinted roll call and gave her a new partner and a different sector. Respondent questioned Coppola about it. The question in this part of the case is whether she did so discourteously and whether she refused to take her assignment.

Sergeant Roberto Coppola was assigned as the sergeant for the school unit in the 28 Precinct on the second platoon on January 29, 2014. He testified that he also was covering as patrol supervisor that week because the command was shorthanded. In his school capacity, he responded to a radio call for a 10-10, possible crime, at an elementary-level charter school located within a public school facility. Coppola testified that when he arrived at the school, he "discovered" Respondent and her partner, Police Officer Essie Davis, who were not assigned to the school unit but instead to a sector car, there as well. Coppola conceded that they had duly responded to a radio run assigned to them, and that he arrived 10 to 15 minutes after them. Other school unit officers were present as well (Tr. 65-67, 83-85, 129, 177).

Coppola testified that he learned a student had alleged that the prior day, a teacher had locked him in a closet. Coppola testified that he spoke to Respondent and learned that she had spoken to the child's mother. Coppola determined nevertheless that "my team" would handle the job, and instructed Respondent and her partner to resume patrol "and leave the location. . . . At that time it appeared that I had compliance" (Tr. 67-68, 86-88, 116, 119).

Coppola contended that he determined there was no probable cause for an arrest because after speaking to staff members, he learned that "the student making the claim had made false claims before regarding teachers." He insisted, nevertheless, that he performed a "thorough investigation." Coppola determined that the proper course of action was to prepare a complaint report for investigation of a child abuse claim, and refer it to the Special Victims Division. Coppola told the complainant's mother that there was insufficient cause to arrest the teacher (Tr. 68-69, 86-89, 97, 112-15, 119).

Coppola testified that he left to attend to another job, but was contacted shortly thereafter by his driver. His driver told him that Respondent and her partner had returned to the location. Coppola came back as well and asked them why they had come back. Because "they were so adamant about taking the report," he instructed them to do so. Coppola returned to the stationhouse to ensure that they complied. Coppola claimed that Respondent completed the report in error because she wrote it as assault in the second degree instead of "investigate child abuse," and the narrative did not explain the crime charged (see Respt. Ex. A, scratch copy). Coppola conceded that he later learned the desk sergeant had spoken to Respondent and the child's mother, and that the desk sergeant then instructed Respondent to return to the school and arrest the teacher (Tr. 70-72, 87, 91-93, 96-97, 100, 104, 113, 115, 118).

On January 31, 2014, while preparing roll call, Coppola, again as patrol supervisor, assigned Respondent to a different partner and sector, but still to a patrol sector car. He gave no reason at trial for this, other than to say that it was for the needs of the Department, but denied that it had anything to do with the school job two days before. Such decisions were "never personal" and "[t]here should be no reason why that assignment should be questioned." Coppola conceded that police officers were allowed to approach their sergeants and the sergeant could decide whether to speak with them. Coppola said that he never had problems with Respondent

in the past. He testified that once the roll call assignments were given, his expectation was that the officers would take their assignments immediately (Tr. 72-73, 76, 79-81, 101-04, 111, 118-19).

After completing roll call, Coppola went on patrol. He did not recall Respondent asking to speak to him. About 15 minutes later, he received a call from the desk sergeant, who said that Respondent was "malingering" in the stationhouse and wanted to speak to Coppola.¹ Coppola returned to the precinct and told Respondent to take her assignment, "as [t]here really was nothing else to discuss." Coppola testified that Respondent "kind of got a little combative and boisterous with me," asking why he had separated her from her partner, and that "it wasn't right." Coppola reinstructed Respondent to take her assignment, and told her that if she continued to "malingering" in the precinct, he would call the duty captain. She responded, "Go ahead and do that." He later saw her [REDACTED] but she did not inform him that [REDACTED]. Coppola conceded that Respondent was [REDACTED] [REDACTED] (Tr. 73-77, 81, 83, 102, 104-06, 110, 112).

Respondent testified that on the first day in question, she was assigned to a sector with Davis and responded to the school for a radio run of an assault. She spoke to the child's mother, who told Respondent that a paraprofessional had placed her eight-year-old son in a locker the day before and had shaken it, injuring the child (Tr. 129-31, 135, 177).

Respondent asked for the patrol supervisor, who that day was Coppola, the schools supervisor, to respond as well, because any arrest would have taken place in a sensitive area like a school building. She explained the situation to Coppola when he arrived, and he instructed her

¹ "Malingering" means to fake or exaggerate an illness or injury in order to avoid an obligation, like work. At least one supervisor at least implicitly accused Respondent of doing this when she said that she was experiencing [REDACTED]. Coppola, however, defined Respondent's "malingering" as "hanging inside the precinct instead of being out on the road" (Tr. 78).

and Davis to resume patrol, which they did. Two other school officers were with him (Tr. 131-33, 164).

About an hour later, Respondent was at the stationhouse for a bathroom break when she encountered the child's mother. She complained that Coppola did nothing about the situation and called her son a troublemaker and a habitual liar about teachers abusing him. When Respondent explained the situation to the desk sergeant, she claimed, he told her that Coppola had handled the job incorrectly and she was to return to the school and arrest the suspect (Tr. 133-36, 164).

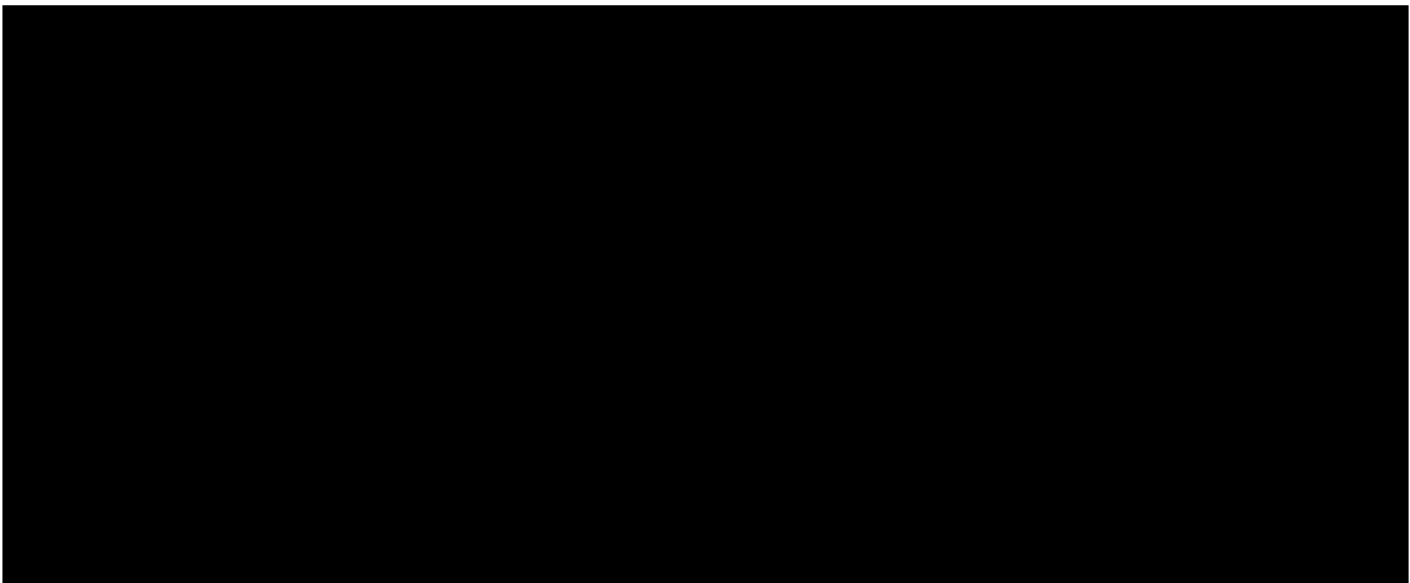
Respondent testified that she returned to the school and found one of the school unit officers. He told her that Coppola had spoken to the Legal Bureau, who said "there's nothing to be done." Respondent described *him* as "adamant" and said that he and Davis started arguing about it. She decided to confirm with the Legal Bureau herself. The member that she spoke to told her that a complaint report should be taken, either for endangering the welfare of a child or "Assault 2 because of the child's age." It then should be referred to the precinct detective squad or Special Victims (Tr. 136-38, 164-65).


Respondent testified that Coppola returned and confronted her, "Didn't I tell you to go 98?" She explained the situation to Coppola and returned to the stationhouse. She told the desk sergeant what occurred, and the desk sergeant spoke to Coppola. Coppola then told Respondent and Davis to complete a complaint report, which Respondent did. She accompanied the complainant and his mother to Special Victims that day (Tr. 138-40, 165).

Respondent testified that she stood roll call on January 31, 2014, and learned that Coppola had assigned her to a new sector with a new partner. Davis, who had been her steady partner for 12 to 18 months, was reassigned as well. Davis was upset, muttering under her breath but also very boisterous. Respondent did not say anything but felt that she had a right to be

partnered with Davis. According to Respondent, most officers chose their partners, looking for someone with whom they worked well, even going to the roll call office to say, "Listen, me and this person is partners." She conceded that the Department was a paramilitary organization, and said that she did not object to the fact that she had a different partner so much as that the change occurred because Coppola was upset about nothing (Tr. 141-44, 167-68, 178).

Respondent claimed that she only was given the assignment and Coppola never ordered her to go out into the field. She said that she approached Coppola to make sure he was not upset about the school job. They never had a problem before. Respondent testified that the vehicles had not come in from the previous tour and no other officers had gone out on patrol yet, so she had to wait anyway. When Coppola came back, now 10 to 15 minutes after roll call, Respondent asked him if there was a problem. He replied, "Yes, there is a problem. I have a problem with you questioning bosses. I have a problem with you going above my head and authority. You're gonna take this sector . . . or I'm going to call the duty captain." Respondent testified, however, that she did not refuse to take her assignment. She denied being loud, boisterous, or disrespectful in any way. In fact, she denied replying to him at all (Tr. 144-47, 153, 166-70, 178-80).





On April 15, 2014, the Manhattan Special Victims Squad arrested the suspect (see Respt. Ex. A, narrative; Ex. B, arrest report). The narrative was consistent with what the child's mother told Respondent at the scene. The charges listed, however, all were misdemeanors, and the only assault charge was Penal Law § 120.00 (2), assault in the third degree, recklessly causing physical injury to another (Tr. 140-41).

Specification No. 3 alleges that Respondent asked Coppola why he had given her a new partner in a "loud and combative" voice. The Department failed to prove that Respondent did so in this manner.

Coppola did not strike the Court as an especially credible witness in this regard. From the outset he demonstrated a bias against Respondent for some reason that has not been determined. He seemed shocked to find her at the scene of an incident that not only was assigned to her sector, but a job to which she and her partner arrived 10 to 15 minutes before he did. Coppola refused to say why he changed Respondent's assignment after the school job, repeating only that supervisors had the authority to change assignments for the good of the Department. That is of course true, but it still was dodging a legitimate question as to why he did it to Respondent. It was undisputed that it would have been totally proper for him to change her assignment if he was upset with the way she handled the school job (Tr. 190-91). Coppola's refusal to face an uncomfortable admission reflects poorly on his credibility.

Most disturbingly, Coppola himself was combative on cross examination, questioning why counsel was asking him certain questions (Tr. 80, "That question is something that has nothing to do with this situation;" Tr. 82, "Just asking, what's the pertinence of the question?;" Tr. 114, "To me, it – really that's an irrelevant question"). It should be noted that the Court admonished the witness each time to please answer the question counsel asked, an admonishment he either ignored or could not follow.

In contrast, Respondent reasonably testified that she simply wanted to ask Coppola a question about the troubling, unexplained circumstance of having her partner and sector switched. There was no necessity for her to be loud or combative in doing this, and it was undisputed that she had the right to ask such a question of a supervisor. In light of Coppola's lack of credibility on this point, the Court finds that the Department failed to prove Respondent's guilt by a preponderance of the evidence and recommends a finding of Not Guilty on Specification No. 3.

Specification No. 2 charges that, after Respondent was ordered by Coppola to leave the command and go on patrol, she failed and neglected to comply with said order. First, it should be noted that Coppola did not have to specifically order Respondent, to her face or in writing, to leave the command and go on patrol. The order to leave the command and enter the patrol field existed from the moment Respondent received her assignment at roll call. It was undisputed that the assignment was lawful (Tr. 11, 79-80, 190-91).

As noted above, Coppola displayed a lack of credibility about whether Respondent was loud and combative. The calculus for determining the second specification, whether she failed to obey Coppola's order, is different, however, due to admissions made by Respondent.

In his testimony, Coppola asserted that during the conversation between him and Respondent, he reinstructed her to take her assignment and said there was nothing more to

discuss. In turn, Coppola asserted, she was loud and combative and protested the assignment. He told her that if she did not take her assignment, he would call the duty captain.

In her testimony, Respondent admitted that she felt she had a right to be partnered with Davis. She further admitted that she asked Coppola if there "was a problem." He answered that if she refused to take her sector, he would call the duty captain. It is this undisputed remark that is key. She claimed that she never actually refused to take her assignment. The problem with Respondent's assertion, however, is that Coppola would have had no reason to make this remark if she had not refused to comply with her assignment. Thus, in spite of Coppola's credibility problems, Respondent's own testimony demonstrates her guilt. As such, Respondent is found Guilty of Specification No. 2.

Case No. 2015-14440

Respondent admitted her guilt in this case. She conceded that she had been notified for an appearance in traffic court that was to take place on April 15, 2014. Nine summonses were to be adjudicated, and she was notified for this appearance about two months in advance. Usually, always in fact, Respondent asserted, she was told at roll call the day of the appearance that she had to go to traffic court that day. If she was late, the court would call the precinct. Either way, she would be post-changed to court. She made traffic court appearances sometimes three to four times a month. On the date in question, however, she was not told of an appearance at roll call, and performed her regular patrol assignment. No one told her that she had missed the appearance until about three months later. She claimed that it now was her practice to ask the roll call office every day if she had traffic court (Tr. 124-28).

PENALTY RECOMMENDATION

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to

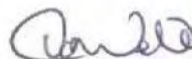
the Department on January 13, 1992. Information from her personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Department recommended a penalty of the forfeiture of 25 vacation days, although that was for all of the specifications, upon some of which Respondent has been found not guilty. The most serious charge of which Respondent was found guilty is the refusal of her assignment. This was a lawful assignment, and although Respondent had the right to question why the change had been made, she was obligated to take her assignment without first indicating that she would refuse.

Although Respondent has served the Department for nearly 25 years and has otherwise excellent performance ratings, she also has a significant disciplinary history. On the other hand, Respondent's action here was relatively minor. The Department presented no credible evidence that, after Coppola warned Respondent if she did not accede he would call the duty captain, she committed any further misconduct. She developed [REDACTED] and [REDACTED]

Viewed in totality, the Department's recommendation is appropriate in this matter. See Case No. 2011-5653 (June 20, 2012) (20-year police officer with one prior adjudication forfeited 25 vacation days for discourtesy to sergeant and refusing to give the sergeant her tax number when requested); Case No. 84605/08 (Sept. 15, 2010) (15-year detective with no prior disciplinary record forfeited 25 vacation days for failing to report to New Year's Eve detail after being ordered to do so). As such, the Court recommends that Respondent forfeit 25 vacation days as a penalty.

Respectfully submitted,



David S. Weisel
Assistant Deputy Commissioner Trials

APPROVED

OCT 20 2016

JAMES P. O'NEILL
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER ROSETTA ROSENDARY-PHILLIPS
TAX REGISTRY NO. 900614
DISCIPLINARY CASE NOS. 2014-12772 & 2015-14440

On her last three annual performance evaluations, Respondent received an overall rating of 4.5 "Extremely Competent/Highly Competent." [REDACTED]

Respondent has been the subject of three prior adjudications. Two of these adjudications arose from a 2010 mitigation hearing. Under Case No. 83520/07, Respondent pleaded guilty to (i) misusing Department computer systems, in that she ran DMV checks on her husband and provided her confidential computer password to other members of the service, (ii) leaving Department property unattended in her personal vehicle, and (iii) neglecting to timely notify her command of a change of address. Respondent admitted that she sometimes lent her Department computer log-in information when a co-worker's credentials were not working. She claimed that she would sometimes run her husband's name in Department systems to ensure the computer was functioning properly. Respondent's husband was arrested in October 2006 by a suburban police department while driving her vehicle. The police removed Respondent's parking plaque, an unopened packet of summonses, three rounds of ammunition, collar brass, and a scooter manual from the vehicle. Respondent said that she inadvertently left these items in her car. She acknowledged that she did not submit a Change of Name, Residence or Social Condition form to the Department when she moved to [REDACTED] but asserted that she changed her ten-card at her command to reflect her new address. Respondent further asserted that she never was told not to share her computer credentials or transport summonses or a Department manual in her personal vehicle.

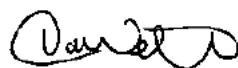
In Case No. 85159/09, Respondent pleaded guilty to (i) changing her assignment without permission or authority, (ii) failing to sign in or out in the district surgeon log, and (iii) being absent without leave for several hours between her visit to the surgeon and her arrival at her command. In April 2008, Respondent suffered an off-duty knee injury and was placed on limited duty status. She began performing limited duty at her command in civilian clothing because the locker room was upstairs and she had been told by her personal physician not to

climb stairs. A lieutenant at her command told her she could no longer perform work in civilian clothing unless she received permission from the district surgeon. When he told her, "Rose, you need to handle your business," she assumed he meant that she should report directly to the district surgeon the following day. She then told the roll call office that the lieutenant had authorized this change. The following day, she reported to the district surgeon's office at 0705 hours, but was told that the district surgeon would not be in until 1000 hours. She did not sign in or out, as required. She returned home to take medication because she was in pain and called her command to request the day off. Her request was denied, but she did not report to her command until 1330 hours.

In 2011, the Police Commissioner disapproved the trial commissioner's recommended penalty of 35 vacation days, noting Respondent's "seeming inability to respect certain core principles of the Department, such as compliance with procedure and being accountable for her actions and whereabouts," and imposed the additional penalty of one-year dismissal probation.

In 2014, under Case No. 2014-11337, Respondent negotiated a penalty of 15 vacation days for (i) obtaining insurance for her personal vehicles using an address in [REDACTED] New York, when she actually resided in [REDACTED], and (ii) failing to properly notify the Department of Motor Vehicles of her change in residence within ten days, as required by law. In February 2013, Respondent's husband was arrested for a narcotics offense while driving a rental car rented under Respondent's name. During the course of the investigation, it was revealed that there was a discrepancy between Respondent's DMV records, which indicated she lived in [REDACTED], and her Department records, which indicated that she lived in [REDACTED]. It was also determined that Respondent had used the [REDACTED] address to get car insurance for another vehicle in order to obtain a lower rate.

From October 27, 2006, to February 23, 2011, Respondent was placed on modified duty status. From January 16, 2008, to May 6, 2009, Respondent was on Level 1 Disciplinary Monitoring. From May 6, 2009, to January 25, 2011, Respondent was on Level 2 Disciplinary Monitoring. Respondent again was placed on Level 2 Disciplinary Monitoring on May 15, 2015, which remains ongoing.



David S. Weisel
Assistant Deputy Commissioner Trials